## IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA

Michael David Nimmons, # 200507134;	) C/A No. 0:06-0039-CMC-BM
Plaintiff,	OPINION and ORDER
v.	)
Joey Preston, County Administrator;	)
Robert Daly, ACDC Administrator;	)
Arlette Jones, Medical Department Captain;	)
Eric Boggs, Operational Captain; and	)
Cindy Haist, R.N. Head Nurse A.C.D.C.,	)
Defendants,	) ) )

Plaintiff is a state inmate at the Anderson County Detention Center of the South Carolina Department of Corrections. Proceeding *pro se*, he filed this action pursuant to 42 U.S.C. 1983 claiming violations of his constitutional rights. Defendants filed a motion to dismiss on February 6, 2006. Plaintiff was specifically advised by court order of the procedures and the importance of filing a response to the motion to dismiss. Despite the warning that if he failed to respond adequately the Defendants' motion may be granted, thereby ending the case, he failed to file any response.

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(d), DSC, this matter was referred to United States Magistrate Judge Bristow Marchant for pre-trial proceedings and a Report and Recommendation. On March 20, 2006, the Magistrate Judge issued a Report.

This court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b).

Based on his review of the record, the Magistrate Judge has recommended that Defendants'

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motion to dismiss be granted and that this case be dismissed, without prejudice, for failure of

Plaintiff to exhaust his administrative remedies. The Magistrate Judge advised Plaintiff of the

procedures and requirements for filing objections to the Report and Recommendation and the serious

consequences if he failed to do so. Plaintiff filed a document entitled "To Whom It May Concern"

on April 19, 2006, which the court is treating as his objections.

The court has considered Plaintiff's objections and finds that they lack merit. It is clear that

Plaintiff has failed to allege exhaustion of administrative remedies. Having reviewed the Complaint,

the motion, the Report and Recommendation of the Magistrate Judge, and Plaintiff's objections, the

Report and Recommendation of the Magistrate Judge is adopted and incorporated by reference.

IT IS HEREBY ORDERED that Defendants' motion to dismiss is GRANTED and this

action is **DISMISSED** without prejudice.

IT IS SO ORDERED.

s/ Cameron McGowan Currie CAMERON MCGOWAN CURRIE UNITED STATES DISTRICT JUDGE

Columbia, South Carolina May 1, 2006

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